

California Department of Pesticide Regulation  
Background on Draft Changes to Notification and Reentry Regulations

The Department of Pesticide Regulation (DPR) developed this packet to provide stakeholders with the background on draft changes to notification and reentry regulations and to inform them of the actions DPR has taken or is proposing to take to improve worker safety.

**Summary of Processes Undertaken by the Department of Pesticide Regulation to Improve Notification, Posting and Hazard Communication Regulations**

**1999**

In 1999, DPR initiated a review of its worker protection and enforcement programs to determine whether changes were necessary. In July 1999, staff from DPR's Worker Health & Safety (WH&S) and Enforcement Branches met with Californians for Pesticide Reform (CPR) and representatives of California Rural Legal Assistance (CRLA), Pesticide Action Network, and the United Farm Workers to discuss pesticide enforcement and health and safety-related issues impacting farm workers, including recommendations contained in the Fields of Poison Report. In July 1999, DPR completed its review of the enforcement program (Enforcement Initiative: Proposals to Improve Enforcement of California's Pesticide Regulatory Program, 1999). Based on DPR's review of the enforcement and worker protection programs and input from CPR, DPR identified five major issues that warranted further discussion to improve the worker protection program. The five issues included: hazard communication, and notification, worker exposure, investigations and complaints, enforcement, and the Pesticide Illness Surveillance Program.

WH&S met again with CPR in November 1999 to discuss field posting, notification, hazard communication, and retaliation. CPR made several recommendations on posting, notification, hazard communication and retaliation requirements. After this second meeting, WH&S prioritized three issues on which to focus:

- Ensure workers are informed of the potential hazard of pesticides at the work site (notification, hazard communication, and application-specific information)
- Ensure an adequate system is in place to prevent workers from entering treated fields during the restricted entry interval (notification and posting)
- Ensure workers have unimpeded and direct access to their pesticide exposure records (application-specific information)

**2000**

WH&S staff met with county agriculture commissioner (CAC) and deputy agriculture commissioner group meetings in February and March 2000 to discuss changes to the worker protection program (hazard communication, posting and notification issues), and CPR's recommendations. WH&S and Enforcement Branch staff met again with CPR in March 2000 to discuss retaliation issues.

In October 2000, DPR staff met with representatives of agricultural organizations to discuss and gain input on possible changes to notification, posting, and hazard communication requirements. Background information was sent to participants of the meeting to help frame the discussion.

## **2001**

Based on a recommendation from the agricultural organization representatives, WH&S staff met with growers and pesticide applicators in Monterey and Fresno Counties in February 2001 to discuss notification, hazard communication, and posting. Attendees were asked for input on what systems they have in place to comply with current requirements and for recommendations to improve the system.

WH&S completed its evaluation of field posting requirements in November 2001. The report, HS-1819, summarized the effect of the impact of the Worker Protection Standard (WPS) on California regulations and pesticide-related illnesses and evaluated the effectiveness of field posting requirements, and concluded that current posting requirements were effective in preventing workers from entering fields early. *(Worker advocates and trade organizations were notified of the report's completion.)*

## **2002**

In September 2002, DPR completed its evaluation of hazard communication, notification and retaliation requirements (HS-1833). To generate this report, WH&S staff evaluated hazard communication, notification and retaliation requirements of the WPS by evaluating PISP data and data from the Enforcement Branch's Compliance Assessment Report. The report also addressed concerns expressed in US EPA's Region IX Worker Protection Standard Assessment, Region IX Report. Problems noted in HS-1833 included communication breakdowns about pesticide applications, the 24-hour time period allowed for the applicator to provide the application-completion notice to the operator of the property, and workers not being able to access and understand pesticide-specific information. The report recommended that DPR evaluate regulatory sections dealing with notification, hazard communication, and application-specific display requirements. *(September 2002: Worker advocates and trade organizations were notified of the report's completion.)*

Based on these recommendations and the need to bring California regulations in line with re-registration decisions being made by US EPA, WH&S staff drafted a set of regulatory concepts. WH&S staff met with the CAC area groups in December 2002 and January 2003 to discuss the proposed regulatory changes.

## **2003**

Based on input from these meetings, the regulatory concepts were revised. These revised concepts were then discussed in meetings with growers and pesticide applicators in Monterey, Fresno, and Imperial Counties in April and May 2003, and with worker advocates in an April 2003 meeting in Sacramento. Following these discussions and consultation with the Enforcement Branch, the concepts were once again revised. DPR met with agriculture industry representatives in September of 2003 to discuss the concepts.

## **2004**

In January DPR sent draft regulations to U.S. EPA Region 9 to ascertain if there would be any equivalency issues with our proposals. During the teleconference discussion, Region 9 staff expressed concerns about the 24 hour grace period currently allowed between the time the pesticide application is complete and when application-specific information must be displayed. DPR agreed to amend 3 CCR, Section 6761.1 to require that the application-specific information must be displayed either when the completion notice is received or before workers are allowed to enter the treated field.

In early March DPR sent draft regulations to all county agricultural commissioner's offices, worker advocates, and trade industry groups. All recipients were asked to provide comments by March 31.

The table on the next page illustrates how DPR is planning, through regulatory change and other methods, to meet the three goals developed in 1999. The flow charts on the last two pages illustrate the proposed notification process both pre- and post-application (proposed changes are shaded).

In addition to the above changes, DPR has also drafted changes to 3 CCR, Section 6770 to establish an exemption in regulation to allow workers to perform label-specific early entry activities (hand labor) during an REI. The pesticide labels that allow specific hand labor activities arose as a result of work by the Agricultural Re-Entry Task Force (ARTF). Formed in 1994 in response to a Data Call-In issued by the US Environmental Protection Agency (US EPA), ARTF is a workgroup consisting of agricultural chemical companies, US EPA, DPR and the Pest Management Regulatory Agency of Health Canada. ARTF has developed a database that can be used to compute risk-based restricted entry intervals.

Goal	Modifications Proposed or Undertaken by the Department of Pesticide Regulation (DPR) to Improve Worker Protection
1. Ensure workers are informed of the potential hazard of pesticides at the work site:	<p>DPR proposes the following:</p> <ul style="list-style-type: none"> <li>• Amend regulations to require that the pesticide applicator must provide an additional notice to the operator of the property if the application schedule changes</li> <li>• Amend regulations to make it clear that both the operator of the property and the labor contractor are responsible for providing notification to all employees</li> <li>• Amend regulations to require that, before entering a treated field and annually thereafter, workers must be orally informed of the location of the application-specific information display.</li> <li>• DPR has completely revised the Pesticide Safety Information Series (PSIS) to make the material more accessible and usable by applicators and fieldworkers. The PSIS are an integral part of agricultural employers' hazard communication program.</li> </ul>
2. Ensure an adequate system is in place to prevent workers from entering treated fields during the restricted entry interval	<p>DPR proposes the following:</p> <ul style="list-style-type: none"> <li>• Amend regulations to prohibit the operator of the property from allowing or directing any employee(s) to enter or remain in the field that was scheduled to be treated until he has received the notice of completion.</li> <li>• Amend regulations to prohibit any labor contractor from allowing or directing any employee(s) to enter a field until authorized by the operator of the property,</li> </ul>
3. Ensure workers have unimpeded and direct access to their pesticide exposure records	See above proposal for application-specific information.

## Notices Required Before a Pesticide Application



